

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	SA CV 15-MC-0031 CJC (JCGx)	Date	December 2, 2015
Title	<i>Dennis Montgomery v. Michael Flynn, et al.</i>		

Present: The Honorable	Jay C. Gandhi, United States Magistrate Judge
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Kristee Hopkins

n/a

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Non-Parties:

Attorneys Present for Defendants:

None

None

Proceedings: (IN CHAMBERS) ORDER DENYING MOTION TO COMPEL

The Court has reviewed plaintiff Dennis L. Montgomery's "notice of motion and expedited motion to compel compliance with subpoena to Michael Flynn and for award of attorneys fees and costs," along with the response filed by interested parties James Risen, *et al.* and Plaintiff's reply. [Dkt. Nos. 1, 6, 7.]

The motion is **DENIED**.

In sum, among other things, Judge Burkhardt of the U.S. District for the Southern District of California already addressed this motion and concluded that "the Court is not persuaded that the subpoena was properly served." *See Montgomery v. Risen*, Case No. 15-CV-2035-AJB-JLB (S.D. Cal. Oct. 30, 2015), ECF No. 9. Plaintiff then filed a reconsideration motion, which was denied, and Judge Burkhardt echoed her earlier findings, including that "the Court remains unpersuaded that Plaintiff effectuated proper service of the subpoena" and "the record is deficient with respect to whether the fees and costs for mileage were tendered to Mr. Flynn for 1 day attendance at deposition as required by Rule 45." *Id.*, ECF No. 11. Judge Burkhardt found "counsel's vague, untimely, and unsworn claims that 'any and all witness fees were sent by U.S. Mail' do not constitute evidence that the fees and mileage were tendered as required by Rule 45."

It is so ordered.

cc: Parties of Record

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Initials of Preparer	kh		